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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
KIM, PAUL

ART UNIT	PAPER NUMBER
2161	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
	10/820,567	O'FARRELL ET AL.
Office Action Summary	Examiner	Art Unit	
	Paul Kim	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 April 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some *   c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office action is responsive to the following communication: Amendment filed on 18 April

2007.

2.   · Claims 1-17 are pending and present for examination. Claims 1, 7 and 12 are in independent

form.

Response to Amendment

3.   Claims 1, 7 and 12 have been amended.

4.   No claims have been cancelled.

5.   No claims have been added.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language..

7.   **Claims 1-2, 4-10, 12-13 and 15-17** are rejected under 35 U.S.C. 102(e) as being anticipated

by Criss et al (U.S. Patent No. 6,968,184, hereinafter referred to as CRISS), filed on 18 August 2003, and

issued on 22 November 2005.

8.   **As per independent claims 1, 7 and 12,** CRISS teaches:

> A method of change management for a mobile data system having a mobile client device
>   that shares data with multiple enterprise data sources, the method comprising:
>
>   receiving a communication request from the mobile client device to establish
>   communications with a server of the mobile data system, wherein the

communication request includes data that identifies one or more applications installed at the mobile client device {See CRISS, C2:L60-C3:L1, wherein this reads over "the mobile device wirelessly transmits to the host computer the indicia identifying the version of its operating software" and "[t]he host computer performs a comparison of the version indicia provided from the mobile device with information identifying the version of corresponding operating software presently stored with an FTP or TFTP server which maintains the latest version available for each operating software"}, and to which the mobile client device is subscribed {See CRISS, C17:L39-45, wherein this reads over "the processor 40 transmits a request packet to the host computer 30 requesting that the host computer 30 transmit a list of the package names corresponding to the package definitions files stored in the memory"};

determining if a context-sensitive update package is available for the identified application subscribed at the client device {See CRISS, C3:L1-4, wherein this reads over "[i]f the host computer determines the mobile device is not running the latest version of the operating software, the host computer transmits a request to the mobile device to have its operating software updated"}; and

downloading the update package to the mobile client device and updating the identified application at the mobile client device {See CRISS, C3:L1-4, wherein this reads over "[i]f the host computer determines the mobile device is not running the latest version of the operating software, the host computer transmits a request to the mobile device to have its operating software updated"}.

9.   **As per dependent claims 2, 10 and 13,** it would be inherent that the claimed invention include a process wherein the identified application is initially installed on the mobile client device since without such initial installation, there would be no reason for the method of change management to determine if the identification application needed updating.

10.   **As per dependent claims 4 and 15,** CRISS teaches:

A method as defined in claim 1, wherein determining if an update package is available comprises:

determining a version number for the identified application installed at the mobile client device {See CRISS, C7:L36-39, wherein this reads over "just following the boot up routine, or any time thereafter, the host computer 30 requests from the mobile terminal indicia which identifies which version of operating software the mobile terminal is running"};

identifying an update package for the identified application {See CRISS, C7:L62-64, wherein this reads over "[i]ncluded with each version of operating software is a unique identifier indicative of the particular version"; and C7:L67-C7:L3, wherein this reads over "the system administrator updates the host computer with sufficient information to communicate those fields provided in the package definition files"}; and

installing the update package at the mobile client device to replace the previous version of the identified application {See CRISS, C3:L41-47, wherein this reads over "wirelessly updating the operating software stored in the at least one mobile device if it is determined that the operating software stored in the at least one mobile device is not the current version"}.

11.   **As per dependent claims 5, 8 and 16,** CRISS teaches:

A method as defined in claim 4, wherein determining a version number comprises receiving data from the mobile client in a predetermined format for the identified application and determining the version number in accordance with the data format {See CRISS, Figures 5a-5d}.

12.   **As per dependent claims 6, 9 and 17,** CRISS teaches:

A method as defined in claim 1, wherein the communication request identifies all installed applications at the mobile client device {See CRISS, C2:L55-60, wherein this reads over "a host computer coupled to the backbone queries the mobile device for indicia identifying the version of operating software stored in the mobile device"}.

Claim Rejections - 35 USC § 103

13.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14.   **Claims 3, 11 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over CRISS in

view of Official Notice.

15.   **As per dependent claims 3, 11 and 14,** CRISS, in view of Official Notice, discloses:

A method as defined in claim 2, wherein the subscription process comprises:

identifying a user at the mobile client device {See CRISS, C5:L55-60, wherein this reads over "a host coupled to the backbone queries the mobile device for indicia identifying the version of operating software stored in the mobile device"};

downloading a Client Framework to the mobile client device {See CRISS, C3:L4-8, wherein this reads over "the mobile device communicates . . . to have the latest versions of software downloaded"}; and

receiving data comprising at least one from the group of Metadata, Customer Data Definition, Customer Business Data, and runtime files for the identified application, wherein the received data is overwritten to any prior corresponding application files previously installed at the mobile client device {See Official Notice below}.

It would have been obvious to one ordinary skill in the art at the time the invention was made to

overwrite the prior corresponding application files (e.g. metadata, Customer Data Definition, Customer

Business Data, and runtime files for the identified application) since upon update of the identified

application, one would not want to lose, by deletion and overwrite, but maintain the accumulated files

corresponding to the application.

Response to Arguments

16.   Applicant's arguments filed 18 April 2007 have been fully considered but they are not persuasive.

     a.   Claims Rejections under 35 U.S.C. 102(e)

       Applicant asserts the argument that Criss fails to disclose that "a context-sensitive update

package that is identified as a result of the mobile device sending a communication request that

identifies installed application to which the mobile device is subscribed." See Amendment, page

7. The Examiner respectfully disagrees. It is noted that Applicant asserts the argument that the

claimed invention "relates to communication requests initiated by the mobile client device that

include information about installed application to which the device is subscribed." See

Amendment, page 7. In response to applicant's argument that the references fail to show said

feature of applicant's invention, it is noted that the features upon which applicant relies (i.e.,

initiating communicating requests by the mobile client device) are not recited in the rejected

claim(s). Instead, claims 1 and 12 simply recite the receiving of a communication request from a

mobile client device to establish communications, failing to directly specify that the server of the

mobile data system was not the initiating party in the communication. Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore,

assuming arguendo that the claims did recite a method wherein communication requests were

initiated by the mobile client device, it is noted that Criss et al continues to disclose a method

wherein the processor of the mobile terminal transmits a request packet to the host computer

requesting package updates. Accordingly, Criss et al does indeed disclose a system wherein

updates are made to a mobile terminal wherein "no explicit update message is solicited from the

mobile device." See Amendment, page 7.

Additionally, Applicant asserts the argument that "Criss says nothing about subscribing to

installed applications and receiving a context-sensitive update package for the subscribed

applications." See Amendment, page 8. The Examiner respectfully disagrees in that Criss et al

discloses a system wherein "a list of the package names corresponding to the package definition

files stored in the memory 66" are transmitted to the mobile terminal. Wherein said package

names relate to the software applications installed on the mobile terminal, one of ordinary skill in

the art would readily acknowledge that said disclosure by Criss would read upon the claimed

feature of "receiving a context-sensitive update package from the server."

Therefore, for the aforementioned reasons above, the rejections under 35 U.S.C. 102(e)

are sustained.

b.   Claims Rejections under 35 U.S.C. 103(a)

As per claim(s) 3, 11, and 14, Applicant has not asserted any specific arguments in

response to the rejections of the claims. Therefore, the rejections of claims 3, 11, and 14 are

sustained because Applicant has not presented any prior art arguments to the rejections

contained in the prior Office Action, dated 18 October 2006.

Conclusion

17.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set

forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

18.   Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be

reached on M-F, 9am - 5pm.

      If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu

Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

      Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or

access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Kim
Patent Examiner, Art Unit 2161
TECH Center 2100

ETIENNE LEROUX
PRIMARY EXAMINER